

Town of Mashpee

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Planning Board Minutes 02-19-2014

**Mashpee Planning Board
Minutes of Meeting
February 19, 2014 at 7:00 p.m.
Waquoit Meeting Room, Mashpee Town Hall
Approved 4-0 on 4/2/14**

Planning Board Members Present: Chairman George Petersen, Mary Waygan, Dennis Balzarini, David Kooharian, Joe Cummings

Also Present: Tom Fudala-Town Planner, Charles Rowley-Consultant Engineer

Absent: Joe Mullin

CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Petersen at 7:00 p.m. on Wednesday, February 19, 2014 and the Pledge of Allegiance was recited.

APPROVAL OF MINUTES—February 5, 2014

MOTION: Mr. Balzarini made a motion to approve the minutes of February 5th, as written. Mr. Kooharian seconded the motion. All voted unanimously.

PUBLIC HEARING

7:05 Applicant: Federal National Mortgage Association c/o Cotuit Solar LLC

Location: 36 Savanna's Path / Trinity Place

Request: Approval of 1-lot definitive subdivision plan and road designs

Chairman Petersen opened the public hearing and read the request for the record. Michael Aucoin, representing the applicant, referenced a drainage calculation which he had resolved with Mr. Rowley. Mr. Aucoin distributed updated plans, with minor changes, to members of the Board. Mr. Aucoin summarized the changes that were made to plans to include a title block and updated tie line ending at Trinity's Place and beginning of Savanna's Path, though Mr. Aucoin indicated that he had been asked by Mr. Rowley to add a note to the plan marking "end of Trinity Path/begin of Savanna's Path." Mr. Aucoin stated that a note was added that the approval was for Trinity Place only, and work on Savanna's Path would require an additional approval. The gate has been shown on the site plan at the appropriate location. Mr. Fudala confirmed that a final set of construction drawings was needed, but Mr. Aucoin stated that there were no changes from the last submittal.

Mr. Balzarini inquired about the radius of the turn around and Mr. Rowley responded that it was determined to be unnecessary since it would enter into the parking area. Mr. Rowley indicated that there would be a 20-day appeal period before signing the plan and recommended some notes to be added to the plan, but nothing that would delay a vote. There was discussion about the note regarding approval limited to the layout for Trinity Place and Savanna's Path. Mr. Fudala stated that there was no construction approved for Savanna's Path. The note was changed to clarify the approval.

MOTION: Ms. Waygan made a motion to approve the Definitive Subdivision Plan for Savanna's Path and Trinity Place dated February 2, 2014, revised February 15, 2014 as amended, so that under the note the words "layout" and "and" be struck from the first sentence and that two labels be added to the plan where Trinity Place ends and where Savanna's Path ends. Mr. Balzarini seconded the motion. All voted unanimously.

MOTION: Ms. Waygan made a motion to close the public hearing. Mr. Balzarini seconded the motion. All voted unanimously.

7:10 Applicant: BCDM, LLC

Location: On and between Blue Castle Drive and Degrass Road, identified on the Mashpee Assessors Maps as Map 104, Blocks 14, 20 and 48

Request: Approval of a Special Permit for a 16 lot cluster subdivision

7:10 Applicant: BCDM, LLC

Location: On and between Blue Castle Drive and Degrass Road, identified on the Mashpee Assessors Maps as Map 104, Blocks 14, 20 and 48

Request: Approve 16-lot cluster subdivision Definitive Subdivision Plan

The appointed time having arrived, Chairman Petersen opened both public hearings and read for the record the applicant's request. Matt Costa of Costa Associates represented the applicant in the now 15-lot subdivision, along with Attorney Brian Wall. Gary James, who conducted the water quality study, distributed copies of the final report. Mr. James stated that the report had been modified based on the recommendations of the adopted conservation measures associated with the lawn area, which included the reduction of overall loading of 2.1 mL, and Mr. James stated that they would be almost matching the current standards of the groundwater. Referencing the MEP requirements, Mr. James stated that 100% was being sought which could only be accomplished through sewerage. Mr. James stated that it would be 20 years before the full impacts of the development would be felt within the limits of Ockway Bay, when municipal sewerage should become available.

Chairman Petersen inquired whether the Board of Health had reviewed the water quality report and Mr. Fudala responded that he did not believe they received a copy. Mr. Fudala stated that the Board of Health commented on the storm water drainage facilities with no issues. Mr. Fudala inquired about the reduction and Mr. James responded that it was 30% reduction. Mr. James questioned how it would be possible to overcome the MEP requirement with the development. Mr. Fudala responded that the past four subdivisions had been required to install on site de-nite septic systems and Mr. James responded that de-nites could eliminate approximately 60% of the remaining load. Mr. Fudala indicated that the area was not a high priority for a sewer system. Mr. Costa stated that the applicant chose to pursue lawn mitigation, which went above and beyond what was typically seen for a lawn scenario, and would be in place as long as the homes were in existence. A permanent lasting change was made and Mr. Costa suggested that installation of a de-nitrifying system may preclude the development from being added to a future sewer line, which would in turn hurt the town in the long run due to the savings of a septic system. Mr. Fudala pointed out that lawn mitigations reduced nitrogen by 30%, leaving 70%, 60% of which could be addressed by de-nitrifying systems. Ms. Waygan inquired whether they would be individual systems and Mr. Fudala confirmed that they would. Mr. Costa added that there were management issues associated with the units due to heavy requirements and requiring people to comply in order for the systems to be effective.

Mr. Wall reported that changes were made to the development's covenants to include the deletion of the requirement for underground sprinklers, amendment of the grass length to a minimum of 4" and the addition of a limited membership category to the association, along with voting privileges. Regarding the affordable housing bylaw, one lot would be set aside and deed restricted as 40B, allowing the developer to donate the lot to the Town or approved agency. Mr. Wall stated that the applicant's intent was to donate the lot and recommended that a condition be added to the permit stating that it would be subject to compliance of the bylaw. The recipient of the lot donation had not yet been identified. Ms. Waygan, having followed up with the Town Manager, indicated that the Mashpee Affordable Housing Trust could hold a lot and recommended that it be added, along with Habitat for Humanity as a condition, along with it being listed as 3-bedroom maximum lot. Lot 15 has been set aside as the affordable housing lot and Ms. Waygan recommended that the lot location also be included in the condition. Ms. Waygan will share her proposed condition text with the Board.

Chairman Petersen inquired whether a plan had been developed for the construction phase of the project. Mr. Costa stated that there was no written plan but it was intended that they would cut the road by accessing Blue Castle and Degrass, and once a base was down for the proposed work and traffic re-directed, work could begin on Blue Castle. Mr. Balzarini recommended use of Red Brick Road or Blue Castle for construction traffic and Mr. Costa responded that it was logical and could be a condition. Mr. Balzarini also recommended establishing a time schedule for heavy equipment vehicles and Mr. Costa responded that it would be during normal business hours, concluding prior to when school buses would be on the road. Mr. Fudala pointed out that the standard indicated that construction activity could not take place before 7am or after 6pm, Monday through Saturday. Mr. Balzarini also expressed his preference that a condition be established that the developer pay for STOP signs for Tracy and Degrass roads and requested that the road be cleaned or swept. There was further discussion regarding the hours. Ms. Waygan inquired whether the covenants would be part of the permit and Mr. Fudala responded that it would not. Mr. Fudala stated that the lawn restrictions could be made into a condition. Mr. Wall stated that they would not oppose the incorporation of the covenants, which would be recorded, but Mr. Fudala indicated that the Town would not want to be party to the covenants. It was determined that the lawn limitations would be a condition and

Ms. Waygan recommended that it be described as intended to be in perpetuity. The Chair noted that the limitation would be recorded as part of the property deeds.

Regarding the open space, Mr. Fudala indicated that if it were maintained by the association, it would require a conservation restriction, which was typically managed by private land trusts. Mr. Wall suggested donating the land to the Town to give to the Conservation Commission. Mr. Fudala stated that ConsCom and the Board of Selectmen would need to vote to accept the property. Mr. Fudala will provide previous examples to Mr. Wall.

Chairman Petersen inquired about the runoff issue on Mr. Barnes' property. Mr. Fudala noted that Ernie Vigillio expressed a similar problem due to the low point in the road and recommended providing swales to prevent the runoff. Mr. Costa responded that they would address runoff issues so as not to exacerbate the problem, but that they could not be responsible for fixing all of the issues on Blue Castle. Mr. Costa asked for help from the Town Engineer but Mr. Fudala stated that the applicant typically would prepare a plan to be reviewed by Mr. Rowley. Mr. Rowley indicated his concern about making any decisions regarding work outside of the layout of Blue Castle Drive, unless Town Counsel approved it, as it was located on private property and the question of prescriptive rights was still unclear. Mr. Fudala suggested that Mr. Barnes supported work being completed in the area but it was unclear whether Mr. Vigillio supported work being completed.

Ms. Waygan inquired about the nitrogen mitigation loading and aggregation plan and whether it would be a condition. Mr. Fudala responded that it was State regulation so would not need to be a condition. Ms. Waygan inquired whether the Fire Inspector approved the turning radii and Mr. Costa responded that the plans were revised and discussed. Mr. Fudala requested written consent from the Fire Department.

The Chair opened the public hearings for National Development and read the request.

MOTION: Mr. Balzarini made a motion to move the public hearings to 8:15 p.m. Mr. Kooharian seconded the motion. All voted unanimously.

Returning to BCDM, members of the public were invited to comment. Referencing his private well, Eric Lubrano stated his preference that the development has a de-nitrifying system. Mr. Lubrano expressed concern regarding Blue Castle's narrow width and the additional truck traffic and stated that the road should be laid out in its legal layout. Mr. Lubrano also stated that during a neighborhood meeting, it was suggested that the Town take over the road, collecting funds from the development to pay their betterment fee for each property while the remainder of the Blue Castle residents paid their own betterments. Finally, Mr. Lubrano questioned the 3 acres located across the street from the 13 acres and the ability to create a cluster development, but Mr. Fudala responded that Mashpee's zoning allowed the combining of multiple lots. Mr. Lubrano requested that trucks and trailers be parked on the property rather than on the road. Regarding the Town taking the road, Mr. Fudala confirmed that a petition signed by the majority of the landowners on the road would be submitted to the Board of Selectmen and that the DPW would provide a cost estimate for betterment charges with a first Warrant Article, following which the neighbors could vote again before submitting a second Warrant Article for Town vote. Mr. Costa noted that a town road taking would be a valid reason for joining the association and working collaboratively. Mr. Costa added that properly maintained de-nite systems could last longer than 20 years. Mr. Fudala suggested that maintenance of the de-nite systems could be written into the covenants. Mr. Costa responded that it was their contention that they did not need de-nite systems. There was further discussion regarding the benefits of de-nite systems and the preclusion from future sewerage for properties with de-nitrifying systems.

Peter Michaelson of Degraess expressed frustration that trucks would be sent down Degraess. Mr. Balzarini responded that it seemed to be the shortest distance. Mr. Michaelson also inquired whether the new road would be in the existing location or in the proper layout and Mr. Costa responded that the road would be constructed in its proper layout and that the regraded gravel would be aligned to the pavement.

Chairman Petersen inquired about the waiver request for the sidewalk requirement and the Chair indicated that he was not in favor of granting the waiver solely because there were not sidewalks in the area. Mr. Costa inquired about the process for building setbacks (25 to street, 10 side & rear) which Mr. Fudala responded was part of the cluster process with the Planning Board. Mr. Balzarini indicated that although he liked sidewalks, he did not feel they were necessary without existing sidewalks in place. Mr. Fudala confirmed that the closest sidewalk would be Great Neck Road, which would likely be extended eventually to New Seabury. Ms. Waygan & Mr. Balzarini indicated that they were leaning toward the waiver. The Chair stated that sidewalks were a safety and accessibility feature and did not support a waiver. There was discussion regarding a Cape Cod berm, placed on one side of the

road and Mr. Fudala recommended placement on the north side of Blue Castle and east side of the new street.

Board members requested that revised plans be sent electronically. The Chair indicated that he wished to review a sidewalk plan. Mr. Kooharian agreed with the Chair, noting that if there were not presently sidewalks, sidewalks would never be built, and that it presented a safety issue. Mr. Rowley recommended review of the template in the sidewalk regulations but also to review it in relation to grading.

Joan Rosey of Blue Castle inquired about the location of the pavement in relation to the water lines. Mr. Costa responded that it would be slightly off the center line and that he had reviewed the plans with the Water District.

Ms. Waygan stated that she would like to accept the offer from the developer regarding the road outside of the layout plan but would prefer that it be reviewed by Town Counsel regarding whether the Planning Board could accept it, make it a condition or through some other means due to its impact to the issue of private property. Mr. Balzarini stated that a petition to the Town to take over the road would be a good option. Ms. Waygan confirmed that it would add value to the homes. Mr. Fudala suggested that the question be put in writing and the Chair and Ms. Waygan agreed to work on it.

Mr. Fudala will draft a decision, to be reviewed by members of the Board. Mr. Costa will forward another extension letter.

MOTION: Mr. Balzarini made a motion to continue the public hearings to March 5 at 7:20 p.m. Mr. Kooharian seconded the motion. All voted unanimously.

7:45 Applicant: National Development

Location: Corner of Route 151 and Old Barnstable Road, Map 66, Lot 107 and Map 73, Lots 30, 31, 46 and 47

Request: Approval of a Special Permit for a 54 unit assisted living facility

7:45 Applicant: National Development

Location: Corner of Route 151 and Old Barnstable Road, Map 66, Lot 107 and Map 73, Lots 30, 31, 46 and 47

Request: Approval of Definitive Subdivision Modification eliminating 5 lots and “Brynwood Way”

Chairman Petersen opened the public hearing for National Development and read for the record the applicant’s request. Ted Tye of National Development was present to discuss the request along with Attorney Eliza Cox and Sean Foster, Civil Engineer. Mr. Tye referenced Mr. Rowley’s letter, noting that Mr. Foster had worked with Mr. Rowley to address the issues. Mr. Tye indicated that most issues were addressed except for the need for additional survey work on the roadway because the existing survey did not accurately reflect the current conditions. However, the weather was not yet conducive to conducting an accurate survey.

Mr. Rowley stated that more information was needed on the details for Old Barnstable Road due to differences between a plan and the site plan, which could impact sight distances and location to sidewalk and traffic stop. Mr. Rowley also wished to assess potential for runoff. Other minor drainage issues on the site will be further considered by Mr. Foster and would not impact the overall concept. Mr. Rowley suggested the possibility of the Board approving the site plan, with the exception of the entrance, up to the first point where the service road goes to the south around the property.

Mr. Fudala drafted a Special Permit decision that had not yet been reviewed by the Board, and recommended that more review of the document was necessary. Mr. Fudala also noted that there was an issue of the roof runoff flowing directly into the groundwater without flowing through a bio retention area, in conflict with the zoning bylaw. Additionally, a water quality report had not yet been reviewed. Mr. Fudala noted that the bylaw would require monitoring wells for every 10 acres, unless the Board of Health determined otherwise. A Board of Health meeting would be held the next evening.

Mr. Tye responded that Old Barnstable Road needed to be re-surveyed, with improved weather, and recommended a condition requiring completion of the survey and consultation with the Town Engineer prior to issuance of the building permit. Mr. Tye confirmed that an exhaustive water quality report had been submitted, though there was question whether the wells would be required as the developed area would be just 5 acres. Mr. Tye added that a condition of the Cape Cod Commission’s approval required 3 wells to provide continual water quality results. The Phase 1 environmental report also showed that there was no contamination at the site. Mr. Foster reported that he had reviewed the zoning and design, and summarized the zoning requirements, indicating that he had re-designed

the 1.5 foot drip strip with a pipe and peat stone to prevent erosion. Mr. Foster also added a sand filter that would treat 70%-50% to slow the infiltration rate and remove the nitrogen. Mr. Fudala noted that a biological action was needed to remove the nitrogen and inquired whether vegetation would be added, and Mr. Foster responded that there would be aeration. Mr. Tye stated that they believed the plan met the zoning bylaw and achieved appropriate nitrogen removal and suggested that the one-story, pitched roof building with gutters and downspouts had the potential of creating dangerous and costly ice dams. Mr. Balzarini inquired whether vegetation could be placed on top of the stones. Mr. Foster suggested a layer of peat further down and offered information regarding the success of sand filters. Ms. Waygan stated that the Planning Board's intent was to strictly enforce all storm water being directed to a vegetated area. Mr. Foster suggested the addition of filter fabric beneath the pipe to hold and slow the water and convey it to the pipe. It was anticipated that 50% of the runoff would be collected by the pipe and the addition of filter fabric could collect 100%. Reference was made to the Cape Cod Commission requirements. Mr. Foster will update the details on L604.

Mr. Rowley referenced the study needed for the driveway area and suggested that the plan should come back to the Board rather than be completed outside the Special Permit process. It was noted that the sign had been moved back. Mr. Rowley referenced the stop line for traffic being far back on Old Barnstable creating a possible safety hazard.

Mr. Fudala suggested that the ANR and rescission could be addressed this evening. Mr. Rowley referenced the plans to be reviewed, noting that the subdivision being rescinded was the plan featuring the cul-de-sac.

MOTION: Mr. Balzarini made a motion to continue the Special Permit public hearing to 7:15 p.m. on March 5. Mr. Kooharian seconded the motion. All voted unanimously.

Ms. Cox summarized that a definitive subdivision plan approved in 1985 which laid out a cul-de-sac roadway and 4 lots, with an existing covenant. Ms. Cox requested that the approved unconstructed subdivision be rescinded and release the lots from the covenant. Additionally, the applicant was seeking an Approval-Not-Required Plan to combine all of the land, minus the land taken by the Water District, into one single lot to become the project site. Mr. Rowley inquired when the ANR was filed, due to the 20 day appeal process. The Board decided to hold on the ANR decision to avoid a constructive grant.

MOTION: Ms. Waygan made a motion that the Planning Board rescind the Definitive Subdivision Plan of 4 lots for land located in Mashpee prepared by Brynwood Associates dated June 1, 1985, made by Cape & Islands Surveying Company recorded by the Registry of Deeds Planning Book 406, page 18 and release the covenants dated September 17, 1985 recorded in Book 4767, page 107. Mr. Balzarini seconded the motion. All voted unanimously.

The rescission was signed by Planning Board members.

MOTION: Ms. Waygan made a motion to close the public hearing for National Development Definitive Plan. Mr. Balzarini seconded the motion. All voted unanimously.

BOARD ITEMS

Old Business

Discussion of Greenways Proposal and Surrounding Commercial Property-No
update, limited attendance due to snow.

Community Preservation Committee-The Chair reported that the memo was submitted to the CPC regarding the Lewis property, though the memo was not received in time so Ms. Waygan verbally expressed the unanimous support by the Planning Board. Ms. Waygan noted that the public also supported the value of the property. The CPC voted to purchase the property for \$155,000.

MMR Military Civilian Community Council-Update of MMR Joint Land Use
Study-No update

Environmental Oversight Committee-The Chair reported that the EOC had drafted a nitrogen fertilizer bylaw to be considered by Town Meeting in October. The Chair noted that the bylaw was based on Falmouth's approved bylaw and was utilized in place of the Cape Cod Commission's suggested bylaw that would have difficulty gaining support. Mr. Fudala questioned the legal authority to utilize Falmouth's bylaw since legislation allowed for the DCPC to develop regulations.

Design Review Committee-Mr. Cummings reported that Design Review considered the New England Leadership Academy, a 60 student boarding school located at 628 Main Street. Issues considered included no town

water, no working elevator, septic needed work, no sprinkler system. A Chinese Restaurant at 3 Green Street wished to make building changes to include the addition of outdoor dining, changing the interior and exterior and increasing seating from 100 to 116. Issues included egress from the building and Fire Department concerns.

Charter Review-No update

Historic District Commission-No update

New Business

Cape Cod Commission Withdrawal Petition-It was determined that the issue would be added to the agenda for the second meeting in March.

C. Rowley Expense Vouchers-No invoices at this time.

CORRESPONDENCE

-Notice of Waterways License Application by Walter F. Phillips for Seasonal Dock at 39 Sunset Circle

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted unanimously. The meeting adjourned at 9:26 p.m.

Respectfully submitted,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS

- Charles Rowley 2/19/14 Letter Regarding Cotuit Solar Definitive Plan Review
- Definitive Subdivision Plan for Savanna's Path & Trinity Place
- Brian Wall 2/18/14 Letter Regarding BCDM Development
- Matt Costa 2/5/14 Updated Waiver Request for Ockway Highlands
- Brian Wall 2/19/14 Memo Regarding BCDM Development Affordable Housing Requirement
- Charles Rowley 2/19/14 Letter Regarding Bridges of Mashpee Plan Review
- Mashpee Planning Board Special Permit Decision for National Development
- National Development Parcel Map
- Stantec Water Quality Report for Bridges of Mashpee
- Stantec Bridges of Mashpee Special Permit Plans
- Rescission of Definitive Plan and Release of Covenant Agreement
- Asia Gardens Plans